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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR    | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|--|-------------|-------------------------|-----------------------|------------------|
| 10/811,594   | 03/29/2004  | Stephen Richard Kazyaka |                       | 2849             |
| 7590   | 12/04/2006  |                         | EXAMINER              |                  |
| Stephen Richard Kazyaka<br>48 Big Trail<br>Sherman, CT 06784 |             |                         | CASTELLANO, STEPHEN J |                  |
|  |             |                         | ART UNIT              | PAPER NUMBER     |
|  |             |                         | 3781                  |                  |

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                          |  |
|------------------------------|------------------------|--------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b>      |  |
|                              | 10/811,594             | KAZYAKA, STEPHEN RICHARD |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>          |  |
|                              | Stephen J. Castellano  | 3781                     |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4 is/are rejected.
- 7) Claim(s) 3 and 4 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3-29-04</u> .   | 6) <input type="checkbox"/> Other: _____                          |

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Claims 3 and 4 are objected to because each claim ends with a semicolon instead of a period. Claims 3 and 4 are not in single sentence form and are incomplete.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2-4 essentially repeat the limitations of claim 1 and fail to further limit claim 1 from which they all depend.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein in view of Griffin et al. (Griffin).

Klein discloses a beverage holder which holds a container 24 of drinking fluids, collects its condensation and spilled fluids and directs them to it's self contained reservoir, the holder comprises a holder lower body 21 with an upper rim, a self contained reservoir created from a centered vertical support column 4a (see Fig. 2A and 6) which provides support to the held container and creates an area to add weight, a magnet or lighting to its bottom open end (the area beneath 4a), the holder directs spilled fluid into the self contained reservoir (the area surrounding support column 4a) utilizing a lower funnel (the tapered sidewalls of the lower body 21), the

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holder fits into existing cup holders, is portable, is machine washable and can be manufactured in one-piece (the lid which is another piece is not considered part of the one-piece beverage holder. Klein discloses the invention except for the upper funnel with an upper rim taller than the container being held and a one-piece holder that contains the entire height of the held container. Griffin teaches a beverage can holder having an upper funnel with an upper rim taller than the container being held. It would have been obvious to add an upper funnel to provide a smooth, cup-like upper drinking portion. The cup-like drinking portion makes it easier to drink from than drinking from the beverage can which provides the hazard of sharp edges that can cut a user's lip. The upper funnel is also in replacement of an upper cap with drinking orifice that was provided in Klein. Griffin also teaches that the funnel is integrally formed in one-piece with the lower body of the holder. It would have been obvious to integrally form the funnel with the lower body of Klein as motivated by the simplification of manufacturing a single piece alleviating the need to manufacture the two parts in separate operations, inventory and store two separate parts and assemble the two parts or possible package the two parts separately. The resulting holder with an integrally formed funnel extending above the uppermost portion of the held container is a one-piece holder that contains the entire height of the held container.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*S. Castellano*  
Stephen J. Castellano  
Primary Examiner  
Art Unit 3781

sjc